

### **REMARKS**

Favorable reconsideration and allowance of the present application is respectfully requested.

Currently, claims 62-67 and 69-80, including independent claim 62, are pending in the present application. In Applicants' previous response, it was pointed out that the problem addressed by the present claims is how to provide an improved lateral flow assay reading device in which the signal to noise ratio of light reflected from the membrane strip is maximized while avoiding the leakage of ambient light around the detection zone during measurement. This is achieved not only by the receiving port providing a light barrier structure but, additionally and advantageously, by the light aperture itself being sized to match the detection zone and thereby to prevent ambient light leakage. Such an arrangement is neither disclosed nor suggested by the references cited in the Office Action – i.e. EP0308770 or U.S. Patent No. 4,833,088, both to DeSimone, et al.

In response to these arguments, the Examiner simply noted that the "aperture" was not recited in the claims. Thus, as indicated above, the limitations of previous dependent claim 68 have now been incorporated into independent claim 62. As such, independent claim 62 requires that the *bottom plate* of the light barrier structure *defines an aperture through which electromagnetic radiation from the source is capable of passing* before contacting the lateral flow membrane strip. The aperture *approximates the size of the detection zone*. For at least this reason, Applicants respectfully submit that the present claims patentably define over the cited references.


Claims 62-81 were also provisionally rejected in the Office Action under the judicially created doctrine of obviousness-type double patenting in view of copending applications 10/013,973, 10/026,415, and 10/084,763. In response, Applicants are submitting herewith terminal disclaimers for 10/013,973 and 10/026,415 to obviate these rejections. Applicants note, however, that 10/084,763 is not owned by the assignee of the present application and is not at all related to the subject matter of the present claims. Thus, Applicants respectfully request the withdrawal of the double patenting rejections based on 10/084,763.

It is believed that the present application is in complete condition for allowance and favorable action is respectfully requested. Examiner Alexander is invited and encouraged to telephone the undersigned, however, should any issues remain after consideration of this Amendment.

Please charge any fees required by this Amendment to Deposit Account No. 04-1403.

Respectfully submitted,

DORITY & MANNING, P.A.



---

Jason W. Johnston  
Registration No. 45,675  
P.O. Box 1449  
Greenville, SC 29602-1449  
Phone: (864) 271-1592  
Facsimile: (864) 233-7342

Date: 7/16/07